

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

NAVY SEALs 1-26, et al.,

Plaintiffs,

v.

LLOYD J. AUSTIN, III in his individual and official
capacity as United States Secretary of Defense, et al.,

Defendants.

Case No. 4:21-cv-01236-O

**DEFENDANTS' UNOPPOSED MOTION FOR *NUNC PRO TUNC* EXTENSION TO
FILE AN ANSWER TO THE AMENDED COMPLAINT**

Defendants respectfully request an extension, *nunc pro tunc*, to file an Answer to the Amended Complaint up through and including June 3, 2022. This is Defendants' first such motion, and Plaintiffs' counsel do not oppose the relief sought. In support of this motion, Defendants submit the following:

- (1) Plaintiffs filed the Amended Complaint on January 24, 2022. ECF No. 84.
- (2) Defendants moved to dismiss on February 7, 2022. ECF Nos. 106-08. (That was the same day on which Plaintiffs moved for a class-wide preliminary injunction. ECF No. 104-05.)
- (3) Following full briefing of the motion to dismiss, the Court denied the Motion to Dismiss on May 7, 2022, directing the parties to file an updated discovery plan within two weeks (on or before May 20, 2022). ECF No. 150.
- (4) Accordingly, under Fed. R. Civ. P. 12 (a)(4), Defendants' Answer was due May 20, 2022 as well.
- (5) Unfortunately, in the press of other business, Defendants' counsel failed to record the due date for the Answer. Defendants' litigation team is extremely busy, with competing

deadlines, in over 20 related cases across the country, many in various stages of emergency litigation. Undersigned counsel deeply regrets the circumstances giving rise to this motion, and apologizes to the Court and to Plaintiffs for this oversight. Defendants are working diligently on an answer. The additional two weeks beyond the original deadline should be sufficient, and should not affect any of the other deadlines in this matter. *See* ECF No. 158. As set forth below in the certificate of conference, Plaintiffs' counsel does not oppose the relief requested in this motion.

For the foregoing reasons, Defendants respectfully request an extension up through and including June 3, 2022, in which to file an answer to the amended complaint.

Dated: May 27, 2022

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS
Director, Federal Programs Branch

ANTHONY J. COPPOLINO
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/s/ Amy E. Powell
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Counsel for Defendants

CERTIFICATE OF CONFERENCE

Counsel for Defendants conferred with Plaintiffs' counsel regarding this motion through email on May 27, 2022. Plaintiffs' counsel indicated that they do not oppose the relief requested in Defendants' motion.

/s/ Amy E. Powell

AMY POWELL

Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on May 27, 2022, I electronically filed the foregoing document through the Court's ECF system, which automatically notifies counsel of record for each party.

/s/ Amy E. Powell

AMY POWELL